

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ANTOWINE BUTTS,)
)
) Plaintiff,)
)
) -against-)
)
) THE CITY OF NEW YORK; et al.,)
)
) Defendants.)
-----X

**AFFIRMATION OF
MICHAEL L. SPIEGEL**

01 CV 2945(NG)(RML)

State of New York)
) ss.:
County of New York)

MICHAEL L. SPIEGEL, an attorney duly admitted to practice before the courts of the State of New York and this Court, hereby affirms under the penalties of perjury as follows:

1. I am an attorney for Antowine Butts, plaintiff in the above referenced matter.
2. By letter to Assistant Corporation Counsel Hillary A. Frommer dated August 16, 2005, the undersigned requested production of “all NYPD and Kings County District Attorney documents and records concerning the investigations into the involvement of Jakim Pugh and Christopher Robinson in the robbery and murders on December 30, 1997.”
3. By letter dated September 23, 2005, Ms. Frommer responded that because “neither Christopher Robinson nor Jakim Pugh were prosecuted as a result of their arrests for the 2187 Strauss Street homicides ... the police department and district attorney documents you have requested cannot be produced as a matter of law.”
4. In a letter to the Court dated October 17, 2005, and at the conference with the

Court on November 17, 2005, Ms. Frommer stated the same general objection to production of the NYPD records.

5. Detective Robert Schulman, the lead detective in the case, and the other detectives investigating the December 30, 1997, grocery store robbery/murders have been deposed. Their testimony revealed that within two days of the murders, Christopher Robinson and Jakim Pugh had both been identified as participants. One of the detectives' sources of information was Martin Mitchell, who described the two men as being present for a planning meeting before the murders, and then being present at the murders. The source of Mitchell's knowledge was his own observations, since he was also present at the planning meeting and at the scene of the murders when they occurred. Mitchell claimed that a third participant, in addition to Robinson and Pugh, was a person known by the nickname "Black."

6. From the time Pugh and Robinson were positively identified on January 2, 1998, until the arrest of plaintiff on January 8, 1998, the investigation focused on identifying "Black." According to their deposition testimony, detectives conducted computerized research in an attempt to identify associates of Pugh and Robinson, they debriefed arrestees, they interviewed complainants who came into the precinct on other cases, and they asked anti-crime and narcotics units to gather information from informants and people "on the street."

7. Detectives claim that a witness identified plaintiff as someone who was associated with Pugh and Robinson, and a photo of plaintiff was shown to a witness from the scene who allegedly identified him as being present at the time of the murders.

8. Plaintiff has denied being an associate of either Pugh or Robinson.

9. Pugh, Robinson and plaintiff were all investigated as part of the unified

investigation into the robbery/murders on December 30, 1997. Ultimately, the grand jury did not indict Robinson, and Pugh was never arrested or charged for the crime.

10. Plaintiff's counsel asked questions at the detectives' depositions concerning their attempts to identify associates of Pugh and Robinson, and at least one, Det. Chmil, stated that he could not recall certain information, but believed that his recollection could be refreshed by looking at investigative documents (specifically "DD5's") concerning such activities. The DD5's which the detective referred to are among those which have not been produced on the grounds that they related to Robinson and/or Pugh.

Dated: New York, New York
December 19, 2005

/s/
MICHAEL L. SPIEGEL [MS-0856]